

**REMARKS**

Applicant submits these general remarks that are applicable to the application and the cited art in general. Specific comments and arguments about individual claims follow. Claims 1-9, 12, 18-22, and 40-47 remain for consideration in the application.

Fabrice is directed to a sheet metal cap that begins its life as a cap without threads, and is placed onto a vessel before any threads are formed. Once the cap is on the vessel, the threads are formed and the cap is sealed on the vessel. To remove the cap, the flange of the cap is broken from the rest of the cap and is no longer available for any function whatsoever. The flange cannot be used to determine whether the cap is properly secured to the vessel.

Applicant submits that to suggest that the term “secured” includes any situation in which the cap and the vessel are essentially in contact with one another wholly subverts the descriptions of the specification of the present application, and is simply done in an unsupported attempt to paint the cap of Fabrice as anything close to the cap of the present claims. It is clear from a reading of the specification that the term “secured” as it is used in the application and the claims does not simply mean “in contact with” which is what the Office Action implies at page 3. The Office Action asserts that “secured” is interpreted to mean “attached, joined, or connected” when it is clear from a reading of the specification that the term is not used in that fashion. Indeed, the term “secured” is repeatedly used to show the proper positioning of the cap on the vessel, that is using alignment of the cap flange and the vessel flange after a rotating motion of the cap onto the vessel. Instead, the Office Action goes so far as to say that loosening the cap is the same thing as securing the cap, because it is possible that a cap in the prior art might be able to be loosened and still be secured to the vessel. Claims must be interpreted in view of the specification, and it is clear that the specification and therefore the claims use the term “secured” to mean the proper alignment of the cap on the vessel, using the flanges of both the cap and the vessel.

**Claim Rejections Under 35 U.S.C. § 102**

Claims 1, 4-5 and 40-41 were rejected under 35 U.S.C. § 102(b) as being anticipated by Fabrice (U.S. Patent No. 2,113,176). Applicant traverses this rejection. Claim 1 recites:

a threaded cap having a non-circular cap flange surrounding an entire circumference of the cap; and a threaded vessel having a non-circular vessel flange of substantially the

same shape as the cap flange, the vessel flange connected directly to the vessel and extending radially from the vessel, wherein the threaded cap is secured to the threaded vessel when the cap flange and vessel flange are aligned.

In contrast, the cap of Fabrice is not threaded until the cap blank is placed on the vessel, and the cap is formed to the vessel, including the removable flange of Fabrice that does not have the same structure of the present flange. Still further, it is clear from a reading of Fabrice that there is no threaded cap with a flange that is ever secured to the vessel as the meaning of secured is used in the present application. The flange of Fabrice's cap is broken away as soon as any loosening of the cap formed on the vessel is performed in Fabrice. Therefore, the structure of Fabrice is not that of the present claims, and Applicant respectfully submits that the claims are allowable.

*Claim Rejections Under 35 U.S.C. § 103*

Claims 7-9 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Fabrice (U.S. Patent No. 2,113,176). Applicant traverses this rejection, and submits that Fabrice does not teach the methods of the claims. Specifically, a reading of the claims clearly recite a threaded cap being threaded to a threaded vessel. The method of Fabrice fabricates a cap on the vessel, not beforehand. Further, Fabrice's cap, when unscrewed, does not contain a flange. The flange breaks off at the first part of the unscrewing process. See Fabrice, page 2, first column, lines 54-59, which state:

The bottle is now sealed and obviously, the crown portion of the cap cannot be removed from the bottle neck without first either severing the base portion or band 6 or disconnecting the entire crown portion of the cap from the base portion or band 6 thereof.

The threaded cap of the claims explicitly recites a flange. The claims clearly distinguish over the structure of Fabrice. Any re-securing of the cap of Fabrice is done so without any flange, and the claims of the present application clearly distinguish over that.

Claims 2-3, 6 and 44-47 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Fabrice as applied to claims 1, 4-5 and 40-41 (above) and further in view of Long Jr. (U.S. Patent 6,059,134). Applicant traverses this rejection. Once again, the cap flange in Fabrice is never present except in initial sealing of the vessel. It breaks away upon any opening of the cap. The structure of Fabrice is not that of the present claims. Fabrice has no flange once it has even

begun to be opened. The flange breaks away. Applicant respectfully submits that the claims are allowable.

Claims 18-19 and 42-47 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Konefal et al. (U.S. Patent 6,039,195) in view of Fabrice. Applicant traverses this rejection. A reading of Fabrice clearly shows the Office Action reasoning about Fabrice to be wrong. The Office Action asserts, at page 9, that “the cap may be secured by threading the cap onto the vessel until the two corresponding flanges as taught by Fabrice are aligned and removed in by actuation in the reverse direction.” This is in no way what happens in Fabrice. First, the cap in Fabrice is formed on the vessel. It is not threaded onto the vessel. Further, when the Fabrice cap is threaded onto a vessel, it is after the flange has been broken off by an initial opening of the vessel. There is no possible way to align two flanges when one of the flanges has been broken off. Still further, the Office Action seems to believe that Applicant is trying to make a child proof cap. This is not the case. There is no mention of any child-proofing of any cap of the present invention in any of the claims, or in the specification. Child-proof caps are more difficult to remove, and require additional parts and components that are neither necessary nor desirable in the present invention embodiments. As such, child-proof caps are not amenable to the structure and use of the claimed subject matter. Applicant respectfully submits that the claims are allowable.

Claims 20-22 and 44-47 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Konefal et al. in view of Fabrice as applied to claims 18-19 and 42-47 above, and further in view of Long Jr. Applicant traverses this rejection. The same arguments about Fabrice made above with respect to claims 18-19 and 42-47 apply equally here. They are incorporated herein but not repeated for the purposes of brevity. Applicant respectfully submits that the claims are allowable.

**CONCLUSION**

Applicant respectfully submits that the cited art does not teach or disclose the present claims, nor does the cited art in any combination render the claims obvious. Applicant respectfully requests reconsideration of the rejections, withdrawal thereof, and allowance of the claims. If the Examiner has any questions or concerns regarding this application, please contact the undersigned at (612) 312-2203.

Respectfully submitted,

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